

The complaint

Mr C has complained that Creation Consumer Finance Ltd (“Creation”) rejected his claim against it under section 75 of the Consumer Credit Act 1974 in relation to his purchase of some solar panels.

Background

Mr C bought solar panels for his home, which were installed in September 2014. The purchase was funded by a loan from Creation, and that business is therefore liable for the acts and omissions of the installer under the relevant legislation. In this case, that relates to the installer misleading Mr C into believing that the panels would be self-funding, which they weren’t, and also installing the panels improperly, which among other things resulted in water leaking through his roof and causing damage inside his property.

These issues are no longer in dispute. Creation has accepted that there was a misrepresentation at the point of sale, and it has made an offer to restructure Mr C’s loan so that over the term of the loan he will not have to pay more than the financial returns from the panels. (This restructure is based on evidence of the actual performance of the panels, taking into account their reduced performance as a result of the negligent installation, and a number of assumptions about their future performance.) And Creation also arranged for the panels to be removed and re-installed, and the roof mended, which has now been done. Finally, Creation offered to pay Mr C £100 for his inconvenience.

Mr C is satisfied that the panels are now working properly. But he says that a couple of cables are still loose, as he can hear them blowing against the house when it is windy. He is concerned that they might still be susceptible to damage. He also says that it will cost £300 to repair the water damage that had already accrued inside his home before the roof was repaired.

Meanwhile, before Creation had issued its final response, Mr C’s complaint was considered by one of our investigators. He agreed that Creation’s offer in relation to the misrepresentation was in line with what he would otherwise have recommended and was fair. But although the roof had been fixed, Creation had still not addressed the internal damage, and so he recommended that Creation either pay Mr C £300 compensation, or alternatively instruct and pay its own contractor to remedy the damage. He also thought that the £100 for Mr C’s trouble should be increased to £200, because it had taken Creation a year to send an engineer to repair the roof.

Creation didn’t respond to the investigator’s opinion (other than to send another copy of its original offer), so the case was referred for an ombudsman’s decision.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

Having carefully considered everything provided, for the same reasons as those explained

by the investigator, I uphold this case. In brief, that is because it is not in dispute that the panels were misrepresented as being self-funding when they were not, and that the roof was damaged as a result of the installation being botched, causing water damage inside the property. So it only remains for me to decide on how to fairly put matters right.

Putting things right

Water damage

Since it is clear that the water damage caused to the inside of Mr C's home is the result of the original installation causing the roof to leak, it is only fair that Creation should pay for it. The figure of £300 has not been challenged and so I accept it. I order Creation to pay that amount, instead of sending its own contractors, as a payment will give the parties a clean break. Creation using its own contractors has the potential for further disputes to arise.

Cables

I accept Mr C's evidence that since the panels were re-installed there has continued to be a cable, or cables, loose on the roof. So I direct Creation to arrange for this to be inspected, and put right, at no cost to Mr C.

Misrepresentation

Creation's offer in relation to the misrepresentation of the panels is in line with what I would have ordered it to do, if it had not made this offer already. So I endorse this offer in principle, but as that offer was made on 18 November 2021, it will be necessary to update the figures to reflect the loan payments that have been made since then. So that this decision will be enforceable (although I am sure that will not be necessary), I will set out the standard approach below.

Creation must recalculate the original loan based on the known and assumed savings and income to Mr C from the solar panels over the ten year term of the loan so he pays no more than that (and he keeps the solar panel system, and any future benefits once the loan has ended).

Since the calculation will show that Mr C is paying (or has paid) more than he should have, then Creation needs to reimburse him accordingly. I therefore require Creation to restructure the loan so as to put Mr C in a position where the solar panel system is cost-neutral over the ten year loan term.

Normally, by recalculating the loan this way, Mr C's monthly repayments would reduce, meaning that he would have paid more each month than he should have done, resulting in an overpayment balance. And as he would have been deprived of the monthly overpayment, Creation must add simple interest at 8% a year from the date of the overpayment to the date of settlement. So I think the fairest resolution would be to let Mr C have the following options as to how he would like his overpayments to be used:

- a) the overpayments are used to reduce the outstanding balance of the loan and he continues to make his current monthly payment resulting in the loan finishing early,
- b) the overpayments are used to reduce the outstanding balance of the loan and he pays a new monthly payment until the end of the loan term,
- c) the overpayments are returned to Mr C and he continues to make his current monthly payment resulting in his loan finishing early, or
- d) the overpayments are returned to Mr C and he pays a new monthly payment until the end of the loan term.

If Mr C accepts my decision, he should indicate on the acceptance form which option he wishes to accept, by writing A, B, C or D.

Inconvenience

I'm satisfied that there was sufficient information available at the time that Mr C first contacted Creation that means the claim should have been upheld earlier, and it should not have taken a year to re-install the panels and repair the roof. I direct that Creation must pay £200 compensation for the inconvenience caused.

My final decision

For the reasons I've explained, I'm upholding this complaint. Creation Consumer Finance Ltd must put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 4 May 2022.

Richard Wood
Ombudsman